

28 • certain violations of the Utah Controlled Substances Act.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 **H→ [None] This bill coordinates with H.B. 149, Reporting Death Involving Controlled**
32a **Substance Amendments, by providing substantive amendments. ←H**

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **26-21-26**, as enacted by Laws of Utah 2010, Chapter 290

36 **58-37-8**, as last amended by Laws of Utah 2015, Chapters 165 and 412

37 **58-37f-201**, as enacted by Laws of Utah 2010, Chapter 287

38 **58-37f-702**, as enacted by Laws of Utah 2010, Chapter 290 and renumbered and
39 amended by Coordination Clause, Laws of Utah 2010, Chapter 290

40 **58-37f-703**, as enacted by Laws of Utah 2010, Chapter 109 and renumbered and
41 amended by Coordination Clause, Laws of Utah 2010, Chapter 109

42 ENACTS:

43 **58-37f-704**, Utah Code Annotated 1953



45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **26-21-26** is amended to read:

47 **26-21-26. General acute hospital to report prescribed controlled substance**
48 **poisoning or overdose.**

49 (1) **H→ [Beginning on July 1, 2012, if] If ←H** a person who is 12 years of age or older
49a is admitted to

50 a general acute hospital for poisoning or overdose involving a prescribed controlled substance,
51 the general acute hospital shall, within three business days after the day on which the person is
52 admitted, send a written report to the Division of Occupational and Professional Licensing,
53 created in Section **58-1-103**, that includes:

54 (a) the patient's name and date of birth;

55 (b) each drug or other substance found in the person's system that may have
56 contributed to the poisoning or overdose, if known; [~~and~~]

57 (c) the name of each person who the general acute hospital has reason to believe may
58 have prescribed a controlled substance described in Subsection (1)(b) to the person, if

90 upon a second or subsequent conviction is guilty of a second degree felony; or

91 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
92 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
93 felony.

94 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
95 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
96 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his
97 person or in his immediate possession during the commission or in furtherance of the offense,
98 the court shall additionally sentence the person convicted for a term of one year to run
99 consecutively and not concurrently; and the court may additionally sentence the person
100 convicted for an indeterminate term not to exceed five years to run consecutively and not
101 concurrently.

102 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
103 felony punishable by imprisonment for an indeterminate term of not less than seven years and
104 which may be for life. Imposition or execution of the sentence may not be suspended, and the
105 person is not eligible for probation.

106 (e) ~~Ĥ→ [Each month, the name, the case number, and, if known, the date of birth of each~~
107 ~~person convicted during the preceding month of violating Subsection (2)(a) shall be reported~~
108 ~~by the court in which the conviction was made]~~ **The Administrative Office of the Courts shall**
108a **report ←Ĥ** to the Division of Occupational and
109 **Professional Licensing Ĥ→ the name, case number, date of conviction, and if known,**
109a **the date of birth of each person convicted of violating Subsection (2)(a) ←Ĥ .**

110 (2) Prohibited acts B -- Penalties and reporting:

111 (a) It is unlawful:

112 (i) for any person knowingly and intentionally to possess or use a controlled substance
113 analog or a controlled substance, unless it was obtained under a valid prescription or order,
114 directly from a practitioner while acting in the course of the person's professional practice, or as
115 otherwise authorized by this chapter;

116 (ii) for any owner, tenant, licensee, or person in control of any building, room,
117 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
118 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
119 any of those locations; or

120 (iii) for any person knowingly and intentionally to possess an altered or forged

152 (ii) on a second conviction, guilty of a class A misdemeanor; and
 153 (iii) on a third or subsequent conviction, guilty of a third degree felony.
 154 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
 155 amounting to a violation of Section 76-5-207:

156 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
 157 body any measurable amount of a controlled substance; and

158 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
 159 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

160 (h) A person who violates Subsection (2)(g) by having in the person's body:

161 (i) a controlled substance classified under Schedule I, other than those described in
 162 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
 163 degree felony;

164 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
 165 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
 166 degree felony; or

167 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
 168 A misdemeanor.

169 (i) A person is guilty of a separate offense for each victim suffering serious bodily
 170 injury or death as a result of the person's negligent driving in violation of Subsection
 171 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

172 (j) ~~H→ [Each month, the name, the case number, and, if known, the date of birth of each~~
 173 ~~person convicted during the preceding month of violating Subsection (2)(a) shall be reported~~
 174 ~~by the court in which the conviction was made]~~ **The Administrative Office of the Courts**
 174a **shall report ←H to the Division of Occupational and**
 175 **Professional Licensing H→ the name, case number, date of conviction, and if known, the date of**
 175a **birth of each person convicted of violating Subsection (2)(a) ←H .**

176 (3) Prohibited acts C -- Penalties:

177 (a) It is unlawful for any person knowingly and intentionally:

178 (i) to use in the course of the manufacture or distribution of a controlled substance a
 179 license number which is fictitious, revoked, suspended, or issued to another person or, for the
 180 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
 181 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
 182 person;

400 (i) driving under the influence of a prescribed controlled substance that renders the
 401 individual incapable of safely operating a vehicle;

402 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

403 (iii) certain violations of the Utah Controlled Substances Act.

404 Section 4. Section **58-37f-702** is amended to read:

405 **58-37f-702. Entering prescribed controlled substance poisonings and overdoses**
 406 **into the database and reporting them to practitioners.**

407 (1) ~~H→ [Beginning on July 1, 2012, if the division]~~ When the database ~~←H~~
 407a receives a report from a general acute
 408 hospital under Section [26-21-26](#), regarding admission to a general acute hospital for poisoning
 409 or overdose involving a prescribed controlled substance, the division shall ~~H→~~ [immediately enter
 410 into the database the information supplied in the report and] ~~←H~~ , within three business days after
 410a the
 411 day on which the report is received:

412 (a) attempt to identify, through the database, each practitioner who may have
 413 prescribed the controlled substance to the patient; and

414 (b) provide each practitioner identified under Subsection (1)(a) with:

415 (i) a copy of the report provided by the general acute hospital under Section [26-21-26](#);
 416 and

417 (ii) the information obtained from the database that led the division to determine that
 418 the practitioner receiving the information may have prescribed the controlled substance to the
 419 person named in the report.

420 (2) It is the intent of the Legislature that the information provided under Subsection
 421 (1)(b) is provided for the purpose of assisting the practitioner in:

422 (a) discussing with the patient issues relating to the poisoning or overdose;

423 (b) advising the patient of measures that may be taken to avoid a future poisoning or
 424 overdose; and

425 (c) making decisions regarding future prescriptions written for the patient.

426 (3) Beginning on July 1, 2010, the division shall, in accordance with Section
 427 [63J-1-504](#), increase the licensing fee described in Subsection [58-37-6\(1\)\(b\)](#) to pay the startup
 428 and ongoing costs of the division for complying with the requirements of this section.

429 Section 5. Section **58-37f-703** is amended to read:

430 **58-37f-703. Entering certain convictions into the database and reporting them to**

431 practitioners.

432 (1) ~~H~~→ ~~[Beginning on July 1, 2012, if]~~ When ~~←H~~ the division receives a report
 432a from a court under
 433 Subsection ~~41-6a-502~~(4) or ~~41-6a-502.5~~(5)(b) relating to a conviction for driving under the
 434 influence of, or while impaired by, a prescribed controlled substance, the division shall:

435 (a) ~~H~~→ ~~[immediately]~~ daily ~~←H~~ enter into the database the information supplied
 435a in the report.

436 including the ~~H~~→ ~~[month during]~~ date on ~~←H~~ which the person was convicted;

437 ~~[(a)]~~ (b) attempt to identify, through the database, each practitioner who may have
 438 prescribed the controlled substance to the convicted person; and

439 ~~[(b)]~~ (c) provide each practitioner identified under Subsection (1)~~[(a)]~~(b) with:

440 (i) a copy of the information provided by the court; and

441 (ii) the information obtained from the database that led the division to determine that
 442 the practitioner receiving the information may have prescribed the controlled substance to the
 443 convicted person.

444 (2) It is the intent of the Legislature that the information provided under Subsection
 445 (1)(b) is provided for the purpose of assisting the practitioner in:

446 (a) discussing the manner in which the controlled substance may impact the convicted
 447 person's driving;

448 (b) advising the convicted person on measures that may be taken to avoid adverse
 449 impacts of the controlled substance on future driving; and

450 (c) making decisions regarding future prescriptions written for the convicted person.

451 (3) Beginning on July 1, 2010, the division shall, in accordance with Section
 452 ~~63J-1-504~~, increase the licensing fee described in Subsection ~~58-37-6~~(1)(b) to pay the startup
 453 and ongoing costs of the division for complying with the requirements of this section.

454 Section 6. Section ~~58-37f-704~~ is enacted to read:

455 **58-37f-704. Entering certain convictions into the database.**

456 Beginning ~~S~~→ ~~[July]~~ ~~October~~ ~~←S~~ 1, 2016, if the division receives a report from a court
 456a under Subsection

457 ~~58-37-8~~(1)(e) or ~~58-37-8~~(2)(j), the division shall ~~H~~→ ~~[immediately]~~ daily ~~←H~~ enter into
 457a the database the

458 information supplied in the report.

458a ~~H~~→ **Section 7. Coordinating H.B. 114 with H.B. 149 --Superseding technical and substantive**
 458b **amendments.**

458c **If this H.B. 114 and H.B. 149, both pass and become law, it is the intent of** ☪

458d **the Legislature that the amendments to Subsection 58-37f-702(1) in H.B. 149 supersede the**
458e **amendments to Subsection 58-37f-702(1) in this bill when the Office of Legislative Research**
458f **and General Counsel prepares the Utah Code database for publication.** ←H

Legislative Review Note
Office of Legislative Research and General Counsel